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1
 2 An act relating to judgment liens; providing a short
 3 title; amending s. 55.202, F.S.; specifying that
 4 payment intangibles, accounts, and the proceeds
 5 thereof are subject to judgment liens; providing
 6 construction; amending s. 55.205, F.S.; deleting a
 7 provision specifying the priority of certain judgment
 8 creditor liens; specifying the validity and
 9 enforceability of judgment liens against motor
 10 vehicles and vessels; providing a procedure for noting
 11 the lien on the certificate of title; specifying
 12 restrictions on the enforcement of judgment liens;
 13 specifying an account debtor's authority to discharge
 14 the account debtor's obligation to pay payment
 15 intangibles, accounts, or the proceeds thereof;
 16 amending s. 55.208, F.S.; providing construction
 17 relating to the effect of liens existing before a
 18 specified date on payment intangibles and accounts and
 19 the proceeds thereof; deleting an obsolete provision
 20 relating to judgment liens on writs of execution
 21 previously delivered to a sheriff; amending s. 55.209,
 22 F.S.; conforming a cross-reference; amending s. 56.29,
 23 F.S.; requiring a court, under certain circumstances,
 24 to order the Department of Highway Safety and Motor
 25 Vehicles to note certain liens on the certificate of

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26 title of certain motor vehicles or vessels and in the
 27 department's records; amending s. 319.24, F.S.;
 28 prohibiting the department from issuing a motor
 29 vehicle certificate of title under certain
 30 circumstances; specifying procedures for a judgment
 31 lienholder to place a lien on motor vehicles or
 32 vessels; revising requirements for the department if a
 33 certificate of title is not forwarded or returned to
 34 the department under certain circumstances; revising
 35 the authority of certain persons to demand and receive
 36 a lien satisfaction; requiring a lienholder to enter a
 37 satisfaction in a certificate of title upon
 38 satisfaction or lapse of a judgment lien; amending s.
 39 319.241, F.S.; revising circumstances under which the
 40 department may not remove a lien from the department's
 41 records or a certificate of title and specifying a
 42 requirement for the department; providing an effective
 43 date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. This act may be cited as the "Judgment Lien
 48 Improvement Act."

49 Section 2. Subsections (2) and (5) of section 55.202,
 50 Florida Statutes, are amended to read:

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51 55.202 Judgments, orders, and decrees; lien on personal
52 property.—

53 (2) A judgment lien may be acquired on a judgment debtor's
54 interest in all personal property in this state subject to
55 execution under s. 56.061, including payment intangibles and
56 accounts, as those terms are defined in s. 679.1021(1), and the
57 proceeds thereof, but excluding ~~other than~~ fixtures, money,
58 negotiable instruments, and mortgages.

59 (a) For payment intangibles and accounts and the proceeds
60 thereof:

61 1. The rights of a judgment lienholder under this section
62 are subject to the rights under chapter 679 of a secured party,
63 as defined in s. 679.1021(1), who has a prior filed financing
64 statement encumbering such payment intangibles or accounts and
65 the proceeds thereof.

66 2. This section does not affect the obligation under s.
67 679.607(1) of an account debtor, as defined in s. 679.1021(1),
68 except as the rights and obligations under this paragraph are
69 otherwise adjudicated under applicable law in a legal proceeding
70 to which the secured party and account debtor are joined as
71 parties.

72 (b) A judgment lien is acquired by filing a judgment lien
73 certificate in accordance with s. 55.203 with the Department of
74 State after the judgment has become final and if the time to
75 move for rehearing has lapsed, no motion for rehearing is

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76 pending, and no stay of the judgment or its enforcement is then
 77 in effect. A court may authorize, for cause shown, the filing of
 78 a judgment lien certificate before a judgment has become final
 79 when the court has authorized the issuance of a writ of
 80 execution in the same matter. A judgment lien certificate not
 81 filed in compliance with this subsection is permanently void and
 82 of no effect.

83 (c)~~(b)~~ For any lien, warrant, assessment, or judgment
 84 collected by the Department of Revenue, a judgment lien may be
 85 acquired by filing the judgment lien certificate information or
 86 warrant with the Department of State in accordance with
 87 subsection (5).

88 (d)~~(e)~~ Except as provided in s. 55.208, the effective date
 89 of a judgment lien is the date, including the time of day, of
 90 filing. Although no lien attaches to property, and a creditor
 91 does not become a lien creditor as to liens under chapter 679,
 92 until the debtor acquires an interest in the property, priority
 93 among competing judgment liens is determined in order of filing
 94 date and time.

95 (e)~~(d)~~ Except as provided in s. 55.204(3), a judgment
 96 creditor may file only one effective judgment lien certificate
 97 based upon a particular judgment.

98 (5) Liens, assessments, warrants, or judgments filed
 99 pursuant to paragraph (2) (c) ~~(2) (b)~~ may be filed directly into
 100 the central database by the Department of Revenue, or its

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101 designee as determined by its executive director, through
 102 electronic or information data exchange programs approved by the
 103 Department of State. Such filings must contain the information
 104 set forth in s. 55.203(1).

105 Section 3. Subsection (1) of section 55.205, Florida
 106 Statutes, is amended, and subsections (5), (6), and (7) are
 107 added to that section, to read:

108 55.205 Effect of judgment lien.—

109 (1) A judgment creditor who has not acquired a judgment
 110 lien as provided in s. 55.202 or whose lien has lapsed may
 111 nevertheless proceed against the judgment debtor's property
 112 through any appropriate judicial process. Such judgment creditor
 113 proceeding by writ of execution acquires a lien as of the time
 114 of levy and only on the property levied upon. ~~Except as provided~~
 115 ~~in s. 55.208, such judgment creditor takes subject to the claims~~
 116 ~~and interest of priority judgment creditors.~~

117 (5)(a) If the judgment debtor's personal property, to the
 118 extent not exempt from execution, includes a motor vehicle or a
 119 vessel for which a Florida certificate of title has been issued,
 120 a judgment lien acquired under this section on such property not
 121 yet noted on the certificate of title is valid and enforceable
 122 against the judgment debtor. However, enforceability under this
 123 chapter of such judgment lien against creditors or subsequent
 124 purchasers is determined as provided under s. 319.27(2) or s.
 125 328.14, as applicable.

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126 (b) A judgment lienholder may obtain an order instructing
 127 the Department of Highway Safety and Motor Vehicles to note the
 128 lien on the certificate of title through a court of competent
 129 jurisdiction conducting proceedings supplementary to execution
 130 under s. 56.29(6)(b).

131 (6) A judgment lien acquired under s. 55.202 may be
 132 enforced only through judicial process, including attachment
 133 under chapter 76; execution under chapter 56; garnishment under
 134 chapter 77; a charging order under s. 605.0503, s. 620.1703, or
 135 s. 620.8504; or proceedings supplementary to execution under s.
 136 56.29. A holder of a judgment lien acquired under s. 55.202, who
 137 is not enforcing separate lien rights in a judgment debtor's
 138 property, may not enforce his or her rights under this section
 139 through self-help repossession or replevin without a court order
 140 or without the express consent of the judgment debtor contained
 141 in a record authenticated in accordance with s. 668.50 or s.
 142 679.1021(1)(g) after the judgment lien attaches.

143 (7) Notwithstanding the attachment of a judgment lien
 144 acquired under s. 55.202 to payment intangibles or accounts and
 145 the proceeds thereof, the account debtor may, absent receipt of
 146 notice under s. 679.607(1)(a) from a secured party, discharge
 147 the account debtor's obligation to pay payment intangibles or
 148 accounts or the proceeds thereof by paying the judgment debtor
 149 until, but not after, the account debtor is served by process
 150 with a complaint or petition by the judgment creditor seeking

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151 judicial relief with respect to the payment intangibles or
 152 accounts. Thereafter, the account debtor may discharge the
 153 account debtor's obligation to pay payment intangibles or
 154 accounts or the proceeds thereof under this section only in
 155 accordance with a final order or judgment issued in such
 156 judicial process that complies with this section.

157 Section 4. Section 55.208, Florida Statutes, is amended to
 158 read:

159 55.208 Effect of prior liens on payment intangibles and
 160 accounts; effect of filed judgment lien on writs of execution
 161 previously delivered to a sheriff.-

162 (1) A judgment lien under s. 55.202 existing before
 163 October 1, 2023, becomes enforceable and perfected as of October
 164 1, 2023, as to payment intangibles and accounts and the proceeds
 165 thereof of a judgment debtor under s. 55.202(2). Any security
 166 interest or lien on payment intangibles or accounts and the
 167 proceeds thereof of a judgment debtor which is enforceable and
 168 perfected before October 1, 2023, continues to have the same
 169 rights and priority as existed before October 1, 2023, and may
 170 not be primed as to payment intangibles or accounts by a
 171 judgment lien certificate filed before October 1, 2023.

172 ~~(1) Any lien created by a writ of execution which has been~~
 173 ~~delivered to the sheriff of any county before October 1, 2001,~~
 174 ~~remains in effect for 2 years thereafter as to any property of~~
 175 ~~the judgment debtor located in that county before October 1,~~

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176 | ~~2001, and remaining within that county after that date. As to~~
177 | ~~any property of the judgment debtor brought into the county on~~
178 | ~~or after October 1, 2001, such writs create no lien, inchoate or~~
179 | ~~otherwise.~~

180 | (2) If a judgment creditor who has delivered a writ of
181 | execution to a sheriff in any county prior to October 1, 2001,
182 | properly files a judgment lien certificate with the Department
183 | of State by October 1, 2003, the resulting judgment lien is
184 | deemed filed on the date the writ was delivered to the sheriff
185 | as to all property of the judgment debtor subject to execution
186 | in this state under s. 56.061 which is located in that county on
187 | October 1, 2001, and that remains continuously in that county
188 | thereafter. Priority of such judgment liens is determined as of
189 | the effective date they are considered to have been filed. As to
190 | all other property of the judgment debtor, the effective date of
191 | the judgment lien is as provided in s. 55.202. The duration of
192 | all judgment liens is as provided in s. 55.204.

193 | (3) If a judgment creditor who has delivered a writ of
194 | execution to a sheriff in any county before October 1, 2001,
195 | does not properly file a judgment lien certificate with the
196 | Department of State by October 1, 2003, such writ is considered
197 | to have been abandoned and to be of no effect after October 1,
198 | 2003.

199 | Section 5. Subsection (1) of section 55.209, Florida
200 | Statutes, is amended to read:

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201 55.209 Department of State; processing fees,
202 responsibilities.—

203 (1) Except for liens, assessments, warrants, or judgments
204 filed electronically as provided in s. 55.202(2)(c) ~~s.~~
205 ~~55.202(2)(b)~~, the Department of State shall collect the
206 following nonrefundable processing fees for all documents filed
207 in accordance with ss. 55.201-55.209:

208 (a) For any judgment lien certificate or other documents
209 permitted to be filed, \$20.

210 (b) For the certification of any filed document, \$10.

211 (c) For copies of judgment lien documents which are
212 produced by the Department of State, \$1 per page or part
213 thereof. However, no charge may be collected for copies provided
214 in an online electronic format via the Internet.

215 (d) For indexing a judgment lien by multiple judgment
216 debtor names, \$5 per additional name.

217 (e) For each additional facing page attached to a judgment
218 lien certificate or document permitted to be filed, \$5.

219 Section 6. Subsection (6) of section 56.29, Florida
220 Statutes, is amended to read:

221 56.29 Proceedings supplementary.—

222 (6) (a) The court may order any property of the judgment
223 debtor, ~~not exempt from execution,~~ or any property, debt, or
224 other obligation due to the judgment debtor, in the hands of or
225 under the control of any person subject to the Notice to Appear,

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226 to be levied upon and applied toward the satisfaction of the
227 judgment debt. The court may enter any orders, judgments, or
228 writs required to carry out the purpose of this section,
229 including those orders necessary or proper to subject property
230 or property rights of any judgment debtor to execution, and
231 including entry of money judgments as provided in ss. 56.16-
232 56.19 against any person to whom a Notice to Appear has been
233 directed and over whom the court obtained personal jurisdiction
234 irrespective of whether such person has retained the property,
235 subject to applicable principles of equity, and in accordance
236 with chapters 76 and 77 and all applicable rules of civil
237 procedure. Sections 56.16-56.20 apply to any order issued under
238 this subsection.

239 (b) If the personal property of the judgment debtor
240 includes a motor vehicle or vessel that is nonexempt to any
241 extent from execution and for which a Florida certificate of
242 title has been issued, upon presentation of a copy of a valid
243 judgment lien certificate acquired under s. 55.202, the court
244 must order the Department of Highway Safety and Motor Vehicles
245 to note the liens of the judgment creditor on the certificate of
246 title and in the records of the department.

247 Section 7. Subsections (2) and (4) and paragraphs (a) and
248 (b) of subsection (5) of section 319.24, Florida Statutes, are
249 amended to read:

250 319.24 Issuance in duplicate; delivery; liens and

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251 | encumbrances.—

252 | (2) A duly authorized person shall sign the original
 253 | certificate of title and each corrected certificate and, if
 254 | there are no liens or encumbrances on the motor vehicle or
 255 | mobile home, as shown in the records of the department or as
 256 | shown in the application, shall deliver the certificate to the
 257 | applicant or to another person as directed by the applicant or
 258 | person, agent, or attorney submitting such application. The
 259 | motor vehicle dealer license number must be submitted to the
 260 | department when a dealer applies for or receives a duplicate
 261 | title. The current odometer reading must be submitted on an
 262 | application for a duplicate title. If there are one or more
 263 | liens or encumbrances on the motor vehicle or mobile home, the
 264 | certificate shall be delivered by the department to the first
 265 | lienholder as shown by department records or to the owner as
 266 | indicated in the notice of lien filed by the first lienholder
 267 | pursuant to s. 319.27. If the notice of lien filed by the first
 268 | lienholder indicates that the certificate should be delivered to
 269 | the first lienholder, the department shall deliver to the first
 270 | lienholder, along with the certificate, a form to be
 271 | subsequently used by the lienholder as a satisfaction. If the
 272 | notice of lien filed by the first lienholder directs the
 273 | certificate of title to be delivered to the owner, then, upon
 274 | delivery of the certificate of title by the department to the
 275 | owner, the department shall deliver to the first lienholder

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276 confirmation of the receipt of the notice of lien and the date
277 the certificate of title was issued to the owner at the owner's
278 address shown on the notice of lien and a form to be
279 subsequently used by the lienholder as a satisfaction. If the
280 application for certificate shows the name of a first lienholder
281 different from the name of the first lienholder as shown by the
282 records of the department or, if the application does not show
283 the name of a judgment lienholder as shown by the records of the
284 department, the certificate shall not be issued to any person
285 until after all parties who appear to hold a lien and the
286 applicant for the certificate have been notified of the conflict
287 in writing by the department by certified mail. If the parties
288 do not amicably resolve the conflict within 10 days from the
289 date such notice was mailed, then the department shall serve
290 notice in writing by certified mail on all persons appearing to
291 hold liens on that particular vehicle, including the applicant
292 for the certificate, to show cause within 15 days from the date
293 the notice is mailed why it should not issue and deliver the
294 certificate to the person indicated in the notice of lien filed
295 by the lienholder whose name appears in the application as the
296 first lienholder without showing any lien or liens as
297 outstanding other than those appearing in the application or
298 those which may have been filed subsequent to the filing of the
299 application for the certificate. If, within the 15-day period,
300 any person other than the lienholder shown in the application or

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301 a party filing a subsequent lien, in answer to such notice to
302 show cause, appears in person or by a representative, or
303 responds in writing, and files a written statement under oath
304 that his or her lien on that particular vehicle is still
305 outstanding, the department shall not issue the certificate to
306 anyone until after such conflict has been settled by the lien
307 claimants involved or by a court of competent jurisdiction. If
308 the conflict is not settled amicably within 10 days of the final
309 date for filing an answer to the notice to show cause, the
310 complaining party shall have 10 days to obtain a ruling, or a
311 stay order, from a court of competent jurisdiction; if no ruling
312 or stay order is issued and served on the department within the
313 10-day period, it shall issue the certificate showing no liens
314 except those shown in the application or thereafter filed to the
315 original applicant if there are no liens shown in the
316 application and none are thereafter filed, or to the person
317 indicated in the notice of lien filed by the lienholder whose
318 name appears in the application as the first lienholder if there
319 are liens shown in the application or thereafter filed. A
320 duplicate certificate or corrected certificate shall only show
321 such lien or liens as were shown in the application and
322 subsequently filed liens that may be outstanding.

323 (4) (a)1. If the owner of the motor vehicle or mobile home,
324 as shown on the title certificate, or the director of the state
325 child support enforcement program, or the director's designee,

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326 | desires to place a second or subsequent lien or encumbrance
 327 | against the motor vehicle or mobile home when the title
 328 | certificate is in the possession of the first lienholder, the
 329 | owner shall send a written request to the first lienholder by
 330 | certified mail, and such first lienholder shall forward the
 331 | certificate to the department for endorsement. If the title
 332 | certificate is in the possession of the owner, the owner shall
 333 | forward the certificate to the department for endorsement.

334 | 2. If the holder of a judgment lien acquired under s.
 335 | 55.202(2) on personal property of the owner desires to place a
 336 | lien on the motor vehicle or a vessel, the judgment lienholder
 337 | must send a written request to the department together with a
 338 | copy of the lienholder's judgment lien certificate. The
 339 | department shall add the name of the judgment lienholder to the
 340 | records of the department. The judgment lienholder must also
 341 | send a written request to the person in possession of the title
 342 | certificate by certified mail, and that person shall forward the
 343 | certificate to the department for endorsement.

344 | (b) The department shall return the certificate to either
 345 | the first lienholder or to the owner, as indicated in the notice
 346 | of lien filed by the first lienholder, after endorsing the
 347 | second or subsequent lien on the certificate and on the
 348 | duplicate. If the first lienholder or owner fails, neglects, or
 349 | refuses to forward the certificate of title to the department
 350 | within 10 days after ~~from~~ the date of the owner's, the judgment

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351 lienholder's, or the director's or designee's request, the
 352 department, on the written request of the subsequent lienholder
 353 or an assignee thereof, shall demand of the first lienholder or
 354 the owner the return of such certificate for the notation of the
 355 second or subsequent lien or encumbrance. If the first
 356 lienholder or owner fails, neglects, or refuses to return the
 357 certificate to the department as requested, the department must
 358 void the certificate of title and issue a replacement
 359 certificate showing the notation of the subsequent lien or
 360 encumbrance.

361 (5) (a) Upon satisfaction of any first lien, judgment lien,
 362 or encumbrance recorded at the department or upon lapse of a
 363 judgment lien, the owner of the motor vehicle or mobile home, as
 364 shown on the title certificate, or the person satisfying the
 365 lien ~~is shall be~~ entitled to demand and receive from the
 366 lienholder a satisfaction of the lien. If the lienholder, upon
 367 satisfaction of the lien and upon demand, fails or refuses to
 368 furnish a satisfaction thereof within 30 days after demand, he
 369 or she shall be held liable for all costs, damages, and
 370 expenses, including reasonable attorney ~~attorney's~~ fees,
 371 lawfully incurred by the titled owner or person satisfying the
 372 lien in any suit brought in this state for cancellation of the
 373 lien. A motor vehicle dealer acquiring ownership of a motor
 374 vehicle with an outstanding purchase money lien, shall pay and
 375 satisfy the outstanding lien within 10 working days of acquiring

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376 ownership. The lienholder receiving final payment as defined in
377 s. 674.215 shall mail or otherwise deliver a lien satisfaction
378 and the certificate of title indicating the satisfaction within
379 10 working days of receipt of such final payment or notify the
380 person satisfying the lien that the title is not available
381 within 10 working days of receipt of such final payment. If the
382 lienholder is unable to provide the certificate of title and
383 notifies the person of such, the lienholder shall provide a lien
384 satisfaction and shall be responsible for the cost of a
385 duplicate title, including fast title charges as provided in s.
386 319.323. The provisions of this paragraph shall not apply to
387 electronic transactions pursuant to subsection (9).

388 (b) Following satisfaction of a lien or upon satisfaction
389 or lapse of a judgment lien, the lienholder shall enter a
390 satisfaction thereof in the space provided on the face of the
391 certificate of title. If the certificate of title was retained
392 by the owner, the owner shall, within 5 days of the satisfaction
393 of a lien, deliver the certificate of title to the lienholder
394 and the lienholder shall enter a satisfaction thereof in the
395 space provided on the face of the certificate of title. If there
396 are no subsequent liens shown thereon, the certificate shall be
397 delivered by the lienholder to the person satisfying the lien or
398 encumbrance and an executed satisfaction on a form provided by
399 the department shall be forwarded to the department by the
400 lienholder within 10 days of satisfaction of the lien.

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401 Section 8. Section 319.241, Florida Statutes, is amended
 402 to read:

403 319.241 Removal of lien from records.—The owner of a motor
 404 vehicle or mobile home upon which a lien has been filed with the
 405 department or noted upon a certificate of title for a period of
 406 5 years may apply to the department in writing for such lien to
 407 be removed from the department files or from the certificate of
 408 title. The application shall be accompanied by evidence
 409 satisfactory to the department that the applicant has notified
 410 the lienholder by certified mail, not less than 20 days prior to
 411 the date of the application, of his or her intention to apply to
 412 the department for removal of the lien. Ten days after receipt
 413 of the application, the department may remove the lien from its
 414 files or from the certificate of title, as the case may be, if
 415 no statement in writing protesting removal of the lien is
 416 received by the department from the lienholder within the 10-day
 417 period. If, however, the lienholder files with the department
 418 within the 10-day period a written statement that the lien is
 419 still outstanding or that a second judgment lien certificate has
 420 been filed with the Department of State, the department shall
 421 not remove the lien until the lienholder presents a satisfaction
 422 of lien to the department. If a second judgment lien certificate
 423 was filed with the Department of State, the department must
 424 remove the notice of the first judgment lien certificate and add
 425 notation of the second judgment lien certificate at the end of

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426 | all noted liens. Ten days after the receipt of an application
427 | for a derelict motor vehicle certificate and notification to the
428 | lienholder, the department may remove the lien from the derelict
429 | motor vehicle record if a written statement protesting removal
430 | of the lien is not received by the department from the
431 | lienholder within the 10-day period.

432 | Section 9. This act shall take effect July 1, 2023.